

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY TAYLOR,

Petitioner, No. CIV S-05-0860 DFL GGH P

vs.

C. EVANS, Warden,

Respondent. ORDER

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Petitioner, proceeding with appointed counsel, is pursuing an application under 28 U.S.C. § 2254. By Order, filed on March 19, 2007, the November 7, 2006, Findings and Recommendations of the undersigned were adopted, wherein respondent's motion to dismiss, construed as a motion to strike the unexhausted ineffective assistance of appellate counsel claim from the first amended petition, was granted and the parties were directed to proceed on the remaining claims. Also on March 19, 2007, petitioner proceeded to file a second amended petition, purportedly "as of right," on the ground that no responsive pleading has yet been filed. Second Amended Petition (SAC), p. 4.

Rule 11 of the Rules Governing § 2254 Section 2254 Cases states: "[t]he Federal Rules of Civil Procedures, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules." Under Rule 15(a) of

1 the Federal Rules of Civil Procedure, “[a] party may amend *once* as a matter of course at any  
2 time before a responsive pleading is served....” [emphasis added]. Respondent is granted ten (10)  
3 days to file any opposition to the filing of the second amended petition without an accompanying  
4 motion for leave to amend. Should respondent elect not to oppose the filing of the second  
5 amended petition, respondent must file an answer within 60 days, after which petitioner has 30  
6 days to file any reply (traverse). The court will not look with favor upon requests for extensions  
7 of time.

8 IT IS SO ORDERED.

9 DATED: 3/30/07

/s/ Gregory G. Hollows

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10 UNITED STATES MAGISTRATE JUDGE

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12 tayl0860.ord

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